

EXHIBIT A

CT CORPORATION
A WoltersKluwer Company

**Service of Process
Transmittal**
08/31/2005
Log Number 510505344

TO: Averil Eager
Perenco Company
10 Duke of York Square, SW3 4LY
London

RE: Process Served in Delaware

FOR: CMS NOMECCO Congo, Inc. (Former Name) (Domestic State: DE)
CMS NOMECCO Congo, LLC (True Name)

ENCLOSED ARE COPIES OF LEGAL PROCESS RECEIVED BY THE STATUTORY AGENT OF THE ABOVE COMPANY AS FOLLOWS:

TITLE OF ACTION: Connecticut Bank of Commerce, Pltf. vs. The Republic of Congo, Dft. TO: CMS
Nomeco Congo, Inc.
Name discrepancy noted.

DOCUMENT(S) SERVED: Affidavit, Exhibits, and Notice of Suit

COURT/AGENCY: New Castle County Delaware Superior Court, DE
Case # 05J-08-826

NATURE OF ACTION: To enable plaintiff to execute on any assets of, or debts owned to, The Republic of
Congo

ON WHOM PROCESS WAS SERVED: The Corporation Trust Company, Wilmington, DE

DATE AND HOUR OF SERVICE: By Process Server on 08/31/2005 at 12:20

APPEARANCE OR ANSWER DUE: None Specified

ATTORNEY(S) / SENDER(S): Paul D. Brown
Greenberg Traurig LLP
The Brandywine Bldg.
1000 West St.
Suite 1540
Wilmington, DE, 19801
302-681-7000

ACTION ITEMS: SOP Papers with Transmittal, via Fed Ex International Priority

SIGNED: The Corporation Trust Company
PER: William Penrod
ADDRESS: 1209 Orange Street
Wilmington, DE, 19801
TELEPHONE: 302-658-7581

Page 1 of 1 / SO

Information displayed on this transmittal is for CT Corporation's record keeping purposes only and is provided to the recipient for quick reference. This information does not constitute a legal opinion as to the nature of action, the amount of damages, the answer date, or any information contained in the documents themselves. Recipient is responsible for interpreting said documents and for taking appropriate action.

EXHIBIT A

**IN THE SUPERIOR COURT FOR THE STATE OF DELAWARE
IN AND FOR NEW CASTLE COUNTY**

CONNECTICUT BANK OF COMMERCE,

) Delaware Judgment No. 05J-08-826
) 1/6/11 2 22 P.163
) Index No. 26671/99

) SUPREME COURT OF THE STATE
) OF NEW YORK
) COUNTY OF KINGS

Plaintiff,

vs.

THE REPUBLIC OF CONGO,

Defendants.

FILED
PROTHONOTARY
2005 AU 30 AM 9:29

**AFFIDAVIT FOR CONVERSION OF
FOREIGN JUDGMENT TO DELAWARE JUDGMENT**

Paul D. Brown, being duly sworn, hereby deposes and says:

1. I, Paul D. Brown, am a member of the bar of the State of Delaware. My bar identification number is 3903.
2. I am local counsel to Af-Cap, Inc., assignee of the judgment creditor, Connecticut Bank of Commerce, in the above-captioned action in the Supreme Court of the State of New York, County of Kings (the "New York Action").
3. This affidavit is submitted for the purpose of converting the judgment against the defendant and judgment debtor in the New York Action, The Republic of Congo, to a Delaware judgment. An exemplified copy of the Money Judgment in the New York Action is attached hereto as Exhibit "A". A Form for the Recordation of the Assigned Delaware Judgment Number is attached hereto as Exhibit "B".

4. The name, address, and zip code of the judgment creditor in the New York action, Af-Cap, Inc., as assignee of Connecticut Bank of Commerce, is:

Af-Cap, Inc.
c/o HWR Services Limited
Craigmuir Chambers
PO Box 71
Road Town, Tortola
British Virgin Islands

5. The name of the judgment debtor, The Republic of Congo, and two addresses regarding the same, in the New York action are:

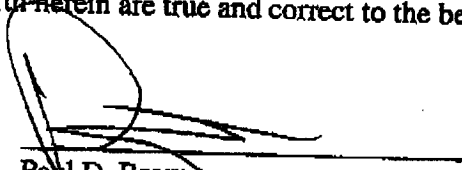
Republic of Congo
Caisse Congolaise D'Amortissement
BP 2090
Brazzaville
Congo

And

Republic of Congo
Caisse Congolaise D'Amortissement
c/o Head of Ministry of Foreign Affairs
Rodolphe Adada
BP 98
Brazzaville
Congo

6. A check in the amount of \$50, payable to the Prothonotary of the Superior Court of the State of Delaware, in and for New Castle County, is enclosed herewith.

7. I hereby certify that the facts set forth herein are true and correct to the best of my knowledge, information and belief.


Paul D. Brown

Subscribed and sworn to before me this 30th day of August, 2005 by Paul D. Brown, who is personally known to me.


NOTARY PUBLIC

Dona K. Kintz

Notary Public, State of Delaware

My commission expires: 6/28/06

**DONA K. KINTZ
NOTARY PUBLIC
STATE OF DELAWARE
My Commission Expires June 28, 2006**

EXHIBIT A

63-3001-1M-74381(82) 244

Nº 7861

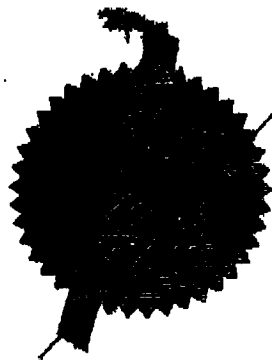
THE PEOPLE OF THE STATE OF NEW YORK,
BY THE GRACE OF GOD FREE AND INDEPENDENT.

To all to whom these Presents may come, GREETING:

KNOW YE: That we have inspected the files and records in the
office of the Clerk of the County of Kings, at Brooklyn, in said
County, and do find a certain

Judgment

remaining there on file or on record in the words and figures
following, to wit:



CONNECTICUT BANK OF COMMERCE

Plaintiff,

MONEY JUDGMENT

-against-

THE REPUBLIC OF CONGO

Defendant.

X

STATE OF NEW YORK)

)ss:

COUNTY OF KINGS)

1. Plaintiff, CONNECTICUT BANK OF COMMERCE, by its attorneys, GOLDBERG & COHN, LLP., LOCAL COUNSEL to the FIRM OF WILLIAMS & CONNOLLY, having moved by Motion for Summary Judgment in Lieu of Complaint dated for an Order that a Money Judgment be granted to Plaintiff in the sum of Ten Million Three Hundred Seventy Five Thousand Two Hundred Forty Four Dollars and Eighty Three (\$10,375,244.83) DOLLARS plus interest and such costs and disbursements as are fixed by the Court; and

2. The Defendant having defaulted by failing to put in any Response to said motion and the matter having come before Hon. Irving Aronin on November 17, 1999 and Justice Aronin having granted Plaintiff's Motion for a Money Judgment of Ten Million Three Hundred Seventy Five Thousand Two Hundred Forty Four Dollars and Eighty Three (\$10,375,244.83) Cents and directing Plaintiff to settle an Order on Notice and Plaintiff having settled said Order on Notice to Defendant, and this Order having been signed by Justice Aronin on February 1, 2000 and having been duly entered by the County Clerk, Kings County on March 10, 2000, *granting that*

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PAGE 09

~~Plaintiff~~ a Money Judgment be ~~awarded~~ against Defendant, The Republic of Congo in the sum of Ten Million Three Hundred Seventy Five Thousand Two Hundred Forty Four Dollars and Eighty Three (\$10,375,244.83) Cents plus interest from November 15, 1996 of ~~and costs of~~ ~~the action~~ and now on the Motion of GOLBERG & COHN, LLP., LOCAL COUNSEL to the FIRM OF WILLIAMS & CONNOLLY it is;

ADJUDGED that Plaintiff, CONNECTICUT BANK OF COMMERCE residing at and with a principal place of business at 612 Bedford Street, Stamford, Connecticut 06901 have Judgment against and do recover of the Defendant, The Republic of Congo, a sovereign foreign entity with a principal residence in the United States at its Embassy located in 4891 Colorado Avenue, Northwest, Washington, D.C., (202) 726-0825 the sum of ~~\$10,375,244.83~~ \$10,375,244.83, plus interest in the amount

\$3,252,650.28 and ~~plus costs and disbursements~~ plus costs and disbursements in the amount of \$445.00, making a total sum of \$13,628,340.11 and the plaintiff shall have execution therefor.

Wilbur A. Levin
CLERK
SUPREME COURT, KINGS COUNTY

KINGS COUNTY CLERK'S OFFICE
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PAGE 10

63-2001A-1M-74302(12) 346

No 7861

All which we have caused by these Presents to be exemplified, and the seal of our said Court for said County to be hereunto affixed.

Witness, Hon. **HON. HOWARD RUDITZKY**
JUSTICE N.Y.S. SUPREME COURT
 A Justice of our Supreme Court in and for the Second Judicial District of said State,
 this day of JUL 7 2003 19

Wilbur A. Levin Clerk.

HON. HOWARD RUDITZKY
JUSTICE N.Y.S. SUPREME COURT

A Justice of the Supreme Court of the State of New York in and for the Second Judicial District thereof, do hereby certify, that **WILBUR A. LEVIN**, whose name is subscribed to the preceding exemplification, is the Clerk of the County of Kings, and Clerk of the Supreme Court in and for said County, and that full faith and credit are due to his official acts.

I FURTHER CERTIFY, that the Seal affixed to said exemplification is the proper Seal of said Court for said County, and that the attestation thereof is in due form of law and by the proper officer.

Witness my hand at the Borough of Brooklyn, this
 7th day of JULY in the year 2003.

Howard A. Ruditzky
 A Justice of the Supreme Court of the State of New York
 in and for the Second Judicial District.

Wilbur A. Levin Clerk.

STATE OF NEW YORK, }
 COUNTY OF KINGS, }

I, **WILBUR A. LEVIN**, Clerk of the County of Kings, and also of the Supreme Court of said County in and for the Second Judicial District of said State (said Court being a Court of Record), do hereby certify, that Hon. **HON. HOWARD RUDITZKY** **JUSTICE N.Y.S. SUPREME COURT** whose name is subscribed to the foregoing certificate, is a Justice of the Supreme Court of said State in and for the Second Judicial District, duly elected and sworn, and that the signature of said Justice to said Certificate is genuine.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the Seal of said County and Court, this day of JUL 7 2003 19

Wilbur A. Levin Clerk.

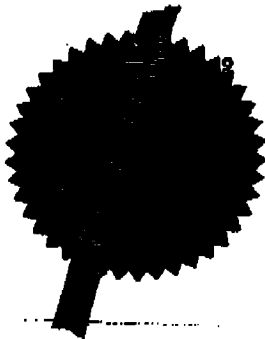


EXHIBIT B

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PAGE 12

**IN THE SUPERIOR COURT FOR THE STATE OF DELAWARE
IN AND FOR NEW CASTLE COUNTY**

CONNECTICUT BANK OF COMMERCE,	)	Delaware Judgment No. _____
)	
	)	Index No. 26671/99
)	
	)	SUPREME COURT OF THE STATE
	)	OF NEW YORK
	)	COUNTY OF KINGS
)	
Plaintiff,)	
)	
vs.)	
)	
THE REPUBLIC OF CONGO,)	
)	
Defendants.)	
)	

Form for Recordation of Assigned Delaware Judgment Number

1. The name, address, and zip code of the assignee of the judgment creditor
in the above captioned New York action is:

Af-Cap, Inc.
c/o HWR Services Limited
Craigmuir Chambers
PO Box 71
Road Town, Tortola
British Virgin Islands

2. The name of the judgment debtor, The Republic of Congo, and two
addresses regarding the same in the New York action are:

Republic of Congo
Caisse Congolaise D'Amortissement
BP 2090
Brazzaville
Congo

And

Republic of Congo
Caisse Congolaise D'Amortissement

c/o Head of Ministry of Foreign Affairs
Rodolphe Adada
BP 98
Brazzaville
Congo

3. Upon the conversion of the foreign judgment in the above-captioned New York action, this judgment shall be assigned Delaware Judgment Number_____.

4. Upon the assignment of a Delaware judgment number, please forward a copy of this form to:

Counsel for the Judgment Creditor
Paul D. Brown, Esquire
Greenberg Traurig, LLP
The Brandywine Building
1000 West Street, Suite 1540
Wilmington, DE 19801

Dated: August 30, 2005

Mr. Boaz S. Morag
Cleary, Gottlieb, Steen & Hamilton
One Liberty Plaza
New York, New York 10006
Certified Mail
Return Receipt Requested

1. Title of legal proceeding; full name of court, case or docket number:

Connecticut Bank of Commerce v. The Republic of the Congo; in the Supreme Court of the State of New York, County of Kings, Index No. 26671/99. A money judgment in favor of Plaintiff Connecticut Bank of Commerce was entered in the above-referenced action. The assignee of Connecticut Bank of Commerce in respect of that judgment is Af-Cap, Inc. A request for conversion of foreign judgment to Delaware judgment was filed in the Superior Court of the State of Delaware In and For New Castle County, *Connecticut Bank of Commerce v. The Republic of the Congo*; Index No. 26671/99, Delaware Judgment No. _____. An application for a writ of execution has also been filed under the same caption as the request for conversion of foreign judgment to Delaware judgment. The garnishee under the writ of execution is CMS Nomeco Congo, Inc., a Delaware corporation.

2. Name of foreign state (or political subdivision) concerned:

Defendant/Judgment Debtor: Republic of Congo.

3. Identity of other parties:

Plaintiff/Judgment Creditor: Af-Cap, Inc. as assignee of Connecticut Bank of Commerce

Garnishee: CMS Nomeco Congo, Inc.

4. Nature of documents served (e.g., summons and complaint; default judgment):

A. Affidavit for Conversion of Foreign Judgment to Delaware Judgment (attached).

B. Form for Recordation of Assigned Delaware Judgment Number (attached).

**IN THE SUPERIOR COURT FOR THE STATE OF DELAWARE
IN AND FOR NEW CASTLE COUNTY**

CONNECTICUT BANK OF COMMERCE,

) Delaware Judgment No. _____

) Index No. 26671/99

) SUPREME COURT OF THE STATE

) OF NEW YORK

) COUNTY OF KINGS

Plaintiff,

vs.

THE REPUBLIC OF CONGO,

Defendants.

**AFFIDAVIT FOR CONVERSION OF
FOREIGN JUDGMENT TO DELAWARE JUDGMENT**

Paul D. Brown, being duly sworn, hereby deposes and says:

1. I, Paul D. Brown, am a member of the bar of the State of Delaware. My bar identification number is 3903.
2. I am local counsel to Af-Cap, Inc., assignee of the judgment creditor, Connecticut Bank of Commerce, in the above-captioned action in the Supreme Court of the State of New York, County of Kings (the "New York Action").
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c/o HWR Services Limited
Craigmuir Chambers
PO Box 71
Road Town, Tortola
British Virgin Islands

5. The name of the judgment debtor, The Republic of Congo, and two addresses regarding the same, in the New York action are:

Republic of Congo
Caisse Congolaise D'Amortissement
BP 2090
Brazzaville
Congo

And

Republic of Congo
Caisse Congolaise D'Amortissement
c/o Head of Ministry of Foreign Affairs
Rodolphe Adada
BP 98
Brazzaville
Congo

6. A check in the amount of \$50, payable to the Prothonotary of the Superior Court of the State of Delaware, in and for New Castle County, is enclosed herewith.

7. I hereby certify that the facts set forth herein are true and correct to the best of my knowledge, information and belief.


Paul D. Brown

Subscribed and sworn to before me this 30th day of August, 2005 by Paul D. Brown, who is personally known to me.


NOTARY PUBLIC

Dona K. Kintz

Notary Public, State of Delaware

My commission expires: 6/28/06

DONA K. KINTZ
NOTARY PUBLIC
STATE OF DELAWARE
My Commission Expires June 28, 2006

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09/11/2005 22:18 0

PAGE 20

EXHIBIT A

CONNECTICUT BANK OF COMMERCE

Plaintiff,

MONEY JUDGMENT

-against-

THE REPUBLIC OF CONGO

Defendant.

-----X

STATE OF NEW YORK)

)ss:

COUNTY OF KINGS)

1. Plaintiff, CONNECTICUT BANK OF COMMERCE, by its attorneys, GOLDBERG & COHN, LLP., LOCAL COUNSEL to the FIRM OF WILLIAMS & CONNOLLY, having moved by Motion for Summary Judgment in Lieu of Complaint dated for an Order that a Money Judgment be granted to Plaintiff in the sum of Ten Million Three Hundred Seventy Five Thousand Two Hundred Forty Four Dollars and Eighty Three (\$10,375,244.83) DOLLARS plus interest and such costs and disbursements as are fixed by the Court; and

2. The Defendant having defaulted by failing to put in any Response to said motion and the matter having come before Hon. Irving Aronin on November 17, 1999 and Justice Aronin having granted Plaintiff's Motion for a Money Judgment of Ten Million Three Hundred Seventy Five Thousand Two Hundred Forty Four Dollars and Eighty Three (\$10,375,244.83) Cents and directing Plaintiff to settle an Order on Notice and Plaintiff having settled said Order on Notice to Defendant, and this Order having been signed by Justice Aronin on February 1, 2000 and having been duly entered by the County Clerk, Kings County on March 10, 2000, *granting that*

~~Plaintiff~~ a Money Judgment be ~~granted~~ against Defendant, The Republic of Congo in the sum of Ten Million Three Hundred Seventy Five Thousand Two Hundred Forty Four Dollars and Eighty Three (\$10,375,244.83) Cents plus interest from November 15, 1996, of ~~and costs of~~ ~~Plaintiff~~ and now on the Motion of GOLBERG & COHN, LLP., LOCAL COUNSEL to the FIRM OF WILLIAMS & CONNOLLY it is;

ADJUDGED that Plaintiff, CONNECTICUT BANK OF COMMERCE residing at and with a principal place of business at 612 Bedford Street, Stamford, Connecticut 06901 have Judgment against and do recover of the Defendant, The Republic of Congo, a sovereign foreign entity with a principal residence in the United States at its Embassy located in 4891 Colorado Avenue, Northwest, Washington, D.C., (202) 726-0825 the sum of ~~\$10,375,244.83~~ \$10,375,244.83, plus interest in the amount of

\$3,252,650.28 ~~and in the amount of \$445.00~~ plus costs and disbursements in the amount of \$445.00, making a total sum of \$13,628,340.11 and the plaintiff shall have execution therefor.

Wilbur A. Levin
CLERK
SUPREME COURT, KINGS COUNTY

KINGS COUNTY CLERK'S OFFICE
FEE

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PAGE 23

62-2801A-114-7432(21) 344

No. 7861

All which we have caused by these Presents to be exemplified, and the seal of our said Court for said County to be hereunto affixed.

Witness, Hon. **HON. HOWARD RUDITZKY**
JUSTICE N.Y.S. SUPREME COURT
 A Justice of our Supreme Court in and for the Second Judicial District of said State,
 this day of JUL 7 2003 19

Wm. G. Levin Clerk.

HON. HOWARD RUDITZKY
JUSTICE N.Y.S. SUPREME COURT

a Justice of the Supreme Court of the State of New York in and for the Second Judicial District thereof, do hereby certify, that **WILBUR A. LEVIN**, whose name is subscribed to the preceding exemplification, is the Clerk of the County of Kings, and Clerk of the Supreme Court in and for said County, and that full faith and credit are due to his official acts.

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Witness my hand at the Borough of Brooklyn, this
 7th day of JULY in the year 2003.

Howard A. Rutzky
 A Justice of the Supreme Court of the State of New York
 in and for the Second Judicial District.

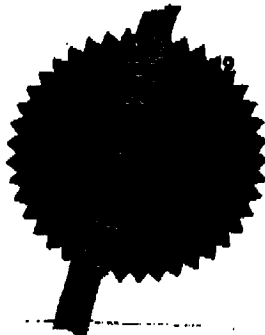
Wm. G. Levin Clerk.

STATE OF NEW YORK, }
 COUNTY OF KINGS, } ss.:

I, **WILBUR A. LEVIN**, Clerk of the County of Kings, and also of the Supreme Court of said County in and for the Second Judicial District of said State (said Court being a Court of Record), do hereby certify, that Hon. **HON. HOWARD RUDITZKY**
JUSTICE N.Y.S. SUPREME COURT
 whose name is subscribed to the foregoing certificate, is a Justice of the Supreme Court of said State in and for the Second Judicial District, duly elected and sworn, and that the signature of said Justice to said Certificate is genuine.

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Wm. G. Levin Clerk.



**IN THE SUPERIOR COURT FOR THE STATE OF DELAWARE
IN AND FOR NEW CASTLE COUNTY**

CONNECTICUT BANK OF COMMERCE,	)	Delaware Judgment No. _____
)	
	)	Index No. 26671/99
)	
	)	SUPREME COURT OF THE STATE
	)	OF NEW YORK
	)	COUNTY OF KINGS
)	
Plaintiff,)	
)	
vs.)	
)	
THE REPUBLIC OF CONGO,)	
)	
Defendants.)	
)	

Form for Recordation of Assigned Delaware Judgment Number

1. The name, address, and zip code of the assignee of the judgment creditor
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Af-Cap, Inc.
c/o HWR Services Limited
Craigmuir Chambers
PO Box 71
Road Town, Tortola
British Virgin Islands

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Republic of Congo
Caisse Congolaise D'Amortissement
BP 2090
Brazzaville
Congo

And

Republic of Congo
Caisse Congolaise D'Amortissement

c/o Head of Ministry of Foreign Affairs
Rodolphe Adada
BP 98
Brazzaville
Congo

3. Upon the conversion of the foreign judgment in the above-captioned New York action, this judgment shall be assigned Delaware Judgment Number_____.
4. Upon the assignment of a Delaware judgment number, please forward a copy of this form to:

Counsel for the Judgment Creditor
Paul D. Brown, Esquire
Greenberg Traurig, LLP
The Brandywine Building
1000 West Street, Suite 1540
Wilmington, DE 19801

Dated: August 30, 2005

PLEASE TAKE NOTICE that the undersigned will present the attached Motion
for Order Directing Clerk to Issue Writ of Garnishment on September 30, 2005 at 10:00
a.m.

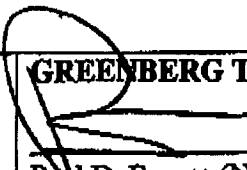
GREENBERG TRAURIG LLP

Sanford M. Saunders, Jr.
Kenneth P. Kaplan
800 Connecticut Avenue, N.W.
Suite 500
Washington, DC 20006
(202) 331-3100

Attorneys for Af-Cap, Inc.

Dated: August 30, 2005

GREENBERG TRAURIG LLP



Paul D. Brown (No. 3903)
Joseph B. Cicero (No. 4388)
The Brandywine Building
1000 West Street, Suite 1540
Wilmington, DE 19801
(302) 661-7000

Attorneys for Af-Cap, Inc.

**IN THE SUPERIOR COURT FOR THE STATE OF DELAWARE
IN AND FOR NEW CASTLE COUNTY**

CONNECTICUT BANK OF COMMERCE,	)	Delaware Judgment No. _____
)	
	)	Index No. 26671/99
)	
	)	SUPREME COURT OF THE STATE
	)	OF NEW YORK
	)	COUNTY OF KINGS
)	
Plaintiff,)	
)	
vs.)	
)	
THE REPUBLIC OF CONGO,)	
)	
Defendants.)	
)	

ASSIGNEE AF-CAP'S PRAECIPE/MOTION FOR WRIT OF GARNISHMENT

Pursuant to Superior Court Civil Rule 4 and Chapter 49 of Title 10 of the Delaware Code Annotated, Af-Cap, Inc. ("Af-Cap"), as assignee of plaintiff/judgment creditor Connecticut Bank of Commerce, by and through its undersigned counsel, hereby moves for an order directing the Prothonotary to issue a writ of attachment *feri facias* against garnishee-Delaware-corporation CMS Nomeco Congo, Inc. ("CMS" or "Garnishee"), in accordance with the Foreign Sovereign Immunities Act ("FSIA"). The FSIA requires that this Court order the issuance of the requested writ of garnishment, as opposed to the Prothonotary issuing it without Court oversight.

INTRODUCTION

1. This is a proceeding in aid of execution on a default judgment in the amount of \$13,628,340.11, plus interest and costs, entered in favor of Af-Cap against the Republic of Congo ("Congo") and Caisee Congolaise D'Amortissement ("CCA") (collectively, "Defendants").

2. On March 10, 2000, the Supreme Court of the State of New York, County of Kings, in Index No. 26671/99, entered an order signed on February 1, 2000 granting Plaintiff Connecticut Bank of Commerce, whose assignee is Af-Cap, a money judgment against Defendant The Republic of Congo for \$13,628,340.11, plus interest and costs. Concurrently herewith, Af-Cap has filed an affidavit for conversion of the New York judgment to a Delaware judgment.

3. CMS is proper garnishee. First, it is a Delaware corporation. Second, under an agreement between Congo and CMS, as assignee dated May 25, 1979, CMS is authorized to exploit oil reserves in Congo in exchange for CMS's obligation to make royalty and other payments to Congo and its affiliates (the "Convention"). As per the Convention and CMS' exploitation of oil reserves thereunder, CMS has become indebted to Congo. CMS's obligation to Congo is subject to garnishment in the United States where the debt is located. *See Af-Cap, Inc. v. Republic of Congo et al.*, 383 F.3d 361, modified 389 F.3d 503, cert. denied 389 F.3d 503 (2004), cert. denied 125 S.Ct. 1735 (2005).

ARGUMENT

I. The Applicable Legal Standards

4. A plaintiff who has a judgment in any court of record may seek to attach property of the judgment debtor that is held by a garnishee located in Delaware, including debts owed the judgment debtor by the garnishee. 10 *Del. C.* § 5031; *LNC Invest. Inc. v. Democratic Rep. of Congo*, 69 F. Supp.2d 607, 611 (D. Del. 1999); *Wilmington Trust Company v. Barron*, 470 A.2d 257, 262-63 (Del. 1983); *McNeilly v. Furman*, 95 A.2d

267, 270-71 (Del. 1953) The appropriate form for attachment of a debtor's property in the hands of a third party is a writ of garnishment. *LNC.*, 69 F. Supp. 2d at 611

II. Issuance Of A Writ Of Garnishment Is Permissible Under The FSIA


5. The FSIA provides that a court must oversee the issuance of writs in aid of execution against a foreign sovereign. Before attempting to serve an attachment in aid of execution on a judgment against a foreign state, a judgment creditor must first seek a determination from a court "that a reasonable period of time has elapsed following the entry of judgment and the giving of any notice required under section 1608(e) of this chapter." 28 U.S.C. § 1610(c). Section 1608(c) provides that when a court enters a default judgment against a foreign state, the judgment creditor must serve a copy of the default judgment on the foreign state in the manner prescribed by § 1608. Thus, Af-Cap is entitled to the issuance of a garnishment writ if (i) it has served notice of the default judgment in the manner prescribed by Section 1608; and (ii) a reasonable period of time has elapsed since serving notice of the default judgment. Both requirements are satisfied here.

6. First, Af-Cap served the default judgment on Congo in the manner prescribed by Section 1608. *See* Exhs. A-B hereto

7. Second, there is no question that a reasonable period of time has elapsed since Af-Cap served notice of the default judgment upon Congo more than four years ago, and, accordingly, Af-Cap satisfies FSIA Section 1610(c).

8. The Prothonotary of the Superior Court may issue a writ of garnishment *See* Superior Court Civil Rule 4(a). As required by the FSIA, Af-Cap provided notice of the default judgment to Congo. The Act does not require that Af-Cap provide notice to

Congo that is seeking attachment in aid of execution. 28 U.S.C. § 1610(c); *see also* *Karaha Bodas Co. v. Perusahaan Pertambangan Minyak Dan Gas Bumi Negara*, 313 F.3d 70, 77-78 (2d Cir. 2002), *cert. denied* 539 U.S. 904 (2003). Nevertheless, Af-Cap will provide such notice in both English and French contemporaneous with this filing. Accordingly, this Court should find that Af-Cap's request satisfies the FSIA requirements and order the Prothonotary to issue a writ of attachment *feri facias* (garnishment) directed to CMS.

GREENBERG TRAURIG LLP Sanford M. Saunders, Jr. Kenneth P. Kaplan 800 Connecticut Avenue, N.W. Suite 500 Washington, DC 200006 (202) 331-3100 <i>Attorneys for Af-Cap, Inc.</i> Dated: August 30, 2005	 GREENBERG TRAURIG LLP Paul D. Brown (No. 3903) Joseph B. Cicero (No. 4388) The Brandywine Building 1000 West Street, Suite 1540 Wilmington, DE 19801 (302) 661-7000 <i>Attorneys for Af-Cap, Inc.</i>
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**IN THE SUPERIOR COURT FOR THE STATE OF DELAWARE
IN AND FOR NEW CASTLE COUNTY**

CONNECTICUT BANK OF COMMERCE,	)	Delaware Judgment No. _____
)	
	)	Index No. 26671/99
)	
	)	SUPREME COURT OF THE
	)	STATE OF NEW YORK
	)	COUNTY OF KINGS
)	
Plaintiff,)	
)	
vs.)	
)	
THE REPUBLIC OF CONGO,)	
)	
Defendants.)	
)	

ORDER

The Court, having considered the praecipe and motion of Af-Cap, Inc. ("Af-Cap"), as assignee of plaintiff/judgment creditor Connecticut Bank of Commerce, for an order directing the Prothonotary of this Court to issue a writ of garnishment on CMS Nomeco Congo, Inc. (the "Motion"), and for good cause shown, it is hereby ORDERED that:

- A. The Motion is GRANTED; and
- B. In accordance with 28 U.S.C. § 1610 (c), the Court directs the Prothonotary of the Court to issue a writ of garnishment on CMS Nomeco Congo, Inc. in aid of Af-Cap's execution of an underlying judgment against defendants/judgment debtors.

Superior Court Judge

Dated: August ____, 2005

**IN THE SUPERIOR COURT FOR THE STATE OF DELAWARE
IN AND FOR NEW CASTLE COUNTY**

CONNECTICUT BANK OF COMMERCE,	)	Delaware Judgment No. _____
)	
	)	Index No. 26671/99
)	
	)	SUPREME COURT OF THE STATE
	)	OF NEW YORK
	)	COUNTY OF KINGS
)	
Plaintiff,)	
)	
vs.)	
)	
THE REPUBLIC OF CONGO,	)	WRIT OF GARNISHMENT
)	
Defendant.)	
)	

TO: THE SHERIFF OF NEW CASTLE COUNTY, STATE OF DELAWARE,
you are commanded:

To serve this attachment on **CMS Nomeco Congo, c/o its Registered Agent, Corporation Trust Company, 1209 Orange Street, Wilmington, DE 19801**, to attach the money, goods, chattels, credits and effects, stocks, bonds, personal property, and/or real estate of **Republic of the Congo**, to satisfy a debt owed to the assignee of the above named plaintiff by the defendant in the amount of **\$13,628,340.11** according to the judgment of the Supreme Court of the State of New York, County of Kings, Index No. 26671/99, which has been converted to a Delaware judgment by the Superior Court of Delaware In and for New Castle County, **Delaware Judgment No. _____**.

To the defendant's garnishee who is served this paper:

The Superior Court of the State of Delaware, in and for New Castle County, requires you to inform **PAUL D. BROWN, ESQUIRE, 1000 West Street, Suite 1540, Wilmington, Delaware, 19801 (302) 661-7000**, of all money, goods, credits and effects, stock, bonds, personal property, and/or real estate belonging to the defendant you currently possess. As the Garnishee, you are to retain the items stated by you in response to the above. You are to hold these items until another order of this Court releases you from this obligation. **You must do this within 20 days after service of this writ upon you, not counting the day that you received this writ.** Your failure to respond may result in a default judgment against you for the amounts the defendant owes as shown below. The amounts the defendant owes are:

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Debt: \$13,628.340.1
Interest at 9 % from May 9, 2000
Prothonotary filing & execution fees: \$50
Sheriff filing & execution fees: \$30

Issued: _____

Prothonotary: _____

per Deputy: _____

Return this Writ on or before: _____

DEL-FS\147924v01

CERTIFICATE OF SERVICE

I hereby certify that one copy of the Notice of Suit, Affidavit for Conversion of Foreign Judgment to Delaware Judgment, Form of Recordation of Assigned Delaware Judgment Number, Notice of Motion for Order Directing Clerk to Issue Writ of Garnishment, Motion for Order Directing Clerk to Issue Writ of Garnishment and [proposed] Order Directing Clerk to Issue Writ of Garnishment, and Writ of Garnishment was served on the 30th day of August, 2005 on the following in the manner indicated below:

Directeur General de la Caisse Congolaise
d'Amortissement
BP 2090
Brazzaville, Congo

Republic of the Congo
c/o Head of the Ministry of Foreign
Affairs
Rodolphe Adada
BP 98
Brazzaville, Congo

Registered Mail RB 669332499 US
Return Receipt Requested

Registered Mail RB 669332508 US
Return Receipt Requested

Minstre de l'Economie, des Finances et
du Budget
Centre Administratif, Quartier Plateau
BP 2093
Brazzaville, Congo

United States Corporation Company
(Registered Agent for Republic
of Congo)
1133 Avenue of the Americas,
Suite 3100
New York, New York 10036

Registered Mail RB 669332542 US
Return Receipt Requested


Certified Mail
7001670001161805014
Return Receipt Requested

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Mr. Boaz S. Morag
Cleary, Gottlieb, Steen & Hamilton
One Liberty Plaza
New York, New York 10006

Certified Mail 70001670001161805021
Return Receipt Requested



Paul D. Brown (#3903)

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